

## **REMARKS**

### **Summary**

Claims 1-30 were pending and all of the claims were rejected in the present Office action. New Claims 31-33 have been introduced to set forth subject matter to which the Applicants are entitled. No new matter has been introduced. The Applicants have carefully reviewed the references and the arguments set forth by the Examiner and respectfully traverse the rejections.

### **Claim Rejections**

#### **35 U.S.C. §103 (a)**

Claims 1-30 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Marino et al. (US 6,026,165; “Marino”) in view of Nomura (US 5,267,299; “Nomura”). The Applicants respectfully submit that the Examiner has not set forth a *prima facie* case of obviousness.

Claim 1 recites, *inter alia*, a portable transmitter including a first storing unit containing an ID code registered therein, the ID code including a plurality of ID code sections forming one ID code as a whole, each ID code section being generated corresponding to an operation of said at least one operating switch, wherein when said first control unit is set to the ID registration mode by said ID registration mode setting mechanism and said at least one operating switch is operated, the ID code sections are supplied to said first storing unit to be registered as said ID code.

The Office action (page 4) concedes that Marino does not teach the above mentioned aspects of Claim 1, and depends on Nomura to remedy the deficiency. The only aspect of Nomura cited (col. 5, lines 8-24) is repeated here:

A reference numeral 150 denotes a switch which is used for registering the password number. More specifically, when this switch 150 is in the closed state, a password number as desired can be inputted with the aid of the ten-keys 140 to be subsequently registered under the control of the controller 110. (The password number thus registered is referred to as the preestablished password number.) For storing the preestablished password number, there is provided a first memory 160. On the other hand, a second memory 170 is destined for storing an input password number originating in a calling party for the purpose of collating it with the preestablished password number.

When interpreting the specification of a patent, it is appropriate to use the context of the specification and drawings. This is particularly true when elements are referred to as “a first memory” and “a second memory”, and the like. In Nomura, both the first and the second memory are located in a telephone answering set, shown in Fig. 1 thereof. On the other hand, the first memory referred to in the arrangement of Claim 1 is located in a transmitter, which is different than the receiver. At best, the first memory of Nomura could be argued to correspond to the second memory in the arrangement of Claim 1. The switch 150 is located in the telephone answering set, and does not have any relationship to the operating switch in the arrangement of Claim 1, which is located in the transmitter. If the elements of Nomura were located in the receiving apparatus described by Marino, there would be no way of registering the ID code in the first memory located in the portable transmitter of the arrangement of Claim 1. As such, the combination of Marino and Nomura does not teach or suggest the all of the elements and limitations of Claim 1, and a *prima facie* case of obviousness has not been made out.

Further, Marino actually teaches away from the arrangement of Claim 1. Specifically:

...wireless keypads having numeric or alphanumeric input keys are used to remotely arm and disarm the system via the use of personal security codes entered into the keypad and transmitted to the receiver and control....[W]ireless keys with unique serial numbers, previously learned by the system can also be employed....This introduces a new security problem since unwanted intruders, skilled in the art of RF receiver and transmission technology in connection with computer technology, can remotely...gain entry into the premises without being detected...This is all that is necessary to counteract the protection afforded by a wireless key even with a very large serial number previously learned by the security system. (Marino, col. 1, lines 17-47).

In this teaching, Marino depreciates an arrangement where an ID code is formulated by a transmitter and received and stored by a receiver as the validation of subsequent transmissions, as it may be recorded and reproduced by an intruder.

*In re Gurley*, 27 F.3d 551, 553, 31 USPQ2d 1130, 1131 (Fed. Cir. 1994) set forth that: [a] reference may be said to teach away when a person of ordinary skill, upon [examining] the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.

Since the primary reference teaches away from the arrangement of Claim 1, its use with a secondary reference to make out a case of obviousness is not permitted.

For at least these reasons, the Applicants respectfully submit that the Examiner has not made out a *prima facie* case of obviousness and Claim 1 is allowable. Independent Claims 11 and 21 recite a similar arrangement, and are allowable for the same reasons. Claims 2-10, 12-20 and 22-30 are claims dependent on otherwise allowable claims, and are allowable, without more.

The Applicants respectfully traverse the Examiner's assertion of "official notice" as applied to Claims 7-8, 17-18 and 27-28 (Office action, page 8) and as applied to Claims 9-10, 19-20 and 29-30 (Office action, page 9), and respectfully requests that, in the event that the Examiner intends to continue to assert these "official notices", that evidentiary support be provided in the next Office action. (MPEP 2144.04). Specifically, the Applicants respectfully traverse the statements made in the context of the "official notices" as flowing from the Applicants' teachings and not from common knowledge.

#### **New Claims**

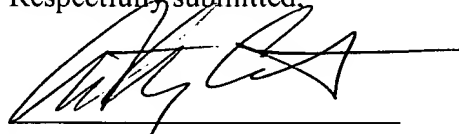
New Claims 31-33 have been introduced. These claims find support in the specification at page 18, lines 8-25. Claims 31-33 are allowable, without more, as claims dependent on an allowable claim.

#### **Conclusion**

Claims 1-33 are pending. For at least the reasons given above, the Applicants respectfully submit that claims are allowable.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony P. Curtis', written over a horizontal line.

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